

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELEWOOD TORRES,

Plaintiff(s),

v.

MMS GROUP, LLC, et al.,

Defendant(s).

22-CV-6142 (DEH)

ORDER

DALE E. HO, United States District Judge:

Plaintiff's application for Temporary Restraining Order (ECF Docs. 88-89) is DENIED for failure to comply with the Court's Individual Rule 4(h) ("A party must confer with their adversary before making an application for a temporary restraining order unless the requirements of Federal Rule of Civil Procedure 65(b) are met.").

The Court further determines that, even if Plaintiff had complied with the Court's Individual Rules, a temporary restraining order would be inappropriate in this case. A temporary restraining order "is an extraordinary remedy that will not be granted lightly," *Jackson v. Johnson*, 962 F. Supp. 391, 392 (S.D.N.Y. 1997), the purpose of which is usually "to preserve an existing situation in *statu[s] quo* until the court has an opportunity to pass upon the merits of the demand for a preliminary injunction." *Pan Am. World Airways, Inc. v. Flight Engineers' Int'l Ass'n, PAA Chapter, AFL-CIO*, 306 F.2d 840, 842 (2d Cir. 1962) (emphasis added). Here, however, "instead of asking the Court for emergency relief to preserve the status quo, Plaintiff[] seek[s] Court action to alter the status quo" *Goldstein v. Hochul*, No. 22-CV-8300 (VSB), 2022 WL 20305832, at *2 (S.D.N.Y. Oct. 3, 2022). Plaintiff does not offer any persuasive reasons why granting the wide-ranging relief he seeks, which would effectuate substantial

changes on the status quo, would be appropriate in a temporary restraining order posture.

Moreover, this case was filed more than a year ago, on July 19, 2022. *See* ECF Doc. 1. Plaintiff offers no adequate explanation as to why he waited approximately 14 months before seeking the extraordinary relief of a temporary restraining order. *See, e.g., Carter v. Sewell*, No. 23-CV-01139 (JLR) (RWL), 2023 WL 7164304, at *1 (S.D.N.Y. Oct. 31, 2023) (denying TRO where plaintiff waited “over eight months . . . to move for a temporary restraining order”); *Goldstein*, 2022 WL 20305832, at *2 (denying TRO where plaintiffs had been “on notice for several months about the [challenged] law, and the law had been in effect for a month”).

With respect to Plaintiff’s Motion for Preliminary Injunction (ECF Docs. 88-89), the parties are ORDERED as follows.

1. By **November 15, 2023**, Defendants shall provide Plaintiff documents or other information related to:
 - a. Defendants’ newly-implemented visual emergency alert system featuring strobe lights;
 - b. Defendants’ newly-implemented elevator camera and video monitoring system;
 - c. Defendants’ anticipated timeline for when vibration notification appliances are to be acquired and implemented; and
 - d. Any other recently-implemented or anticipated changes that address the relief sought in Plaintiff’s Motion.
2. The parties shall meet and confer in good faith and file a joint status letter on ECF by **November 17, 2023**. The joint letter shall provide the following information in separate paragraphs:

- a. Whether any of the requested relief sought in Plaintiff's Motion for Preliminary Injunction has already been provided by Defendants.
- b. What discovery requests, if any, Defendants seek in order to oppose Plaintiff's Motion for Preliminary Injunction.
- c. A proposed schedule for preliminary injunction briefing.
- d. Proposed dates for a preliminary injunction hearing and whether parties believe live testimony will be necessary.

SO ORDERED.

Dated: November 14, 2023
New York, New York

A handwritten signature in black ink, appearing to read "Dale Ho", is written above a horizontal line.

DALE E. HO
United States District Judge